



REMARKS

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The present response adds claim 34. Accordingly, upon entry of this amendment, claims 1-34 remain pending in this application. Claims 1-3, 9, 10, 22, 24, 27-30, and 33 have been rejected as being anticipated by Eckhouse (U.S. Patent No. 5,720,772) under 35 U.S.C. 102(b), and claims 1, 9, 10, 15, 16, 22, 24, and 31-33 have been rejected as being anticipated by Braun et al. (U.S. Patent No. 5,425,754) under 35 U.S.C. 102(b). Claims 12, 13, and 23 have been rejected as being unpatentable over Eckhouse in view of Talpalriu (U.S. Patent No. 6,171,302 B1) under 35 U.S.C. 103(a).

Although the Office Action indicated that claims 4-8 and 11 have been rejected under 35 U.S.C. 102(a) as being anticipated by Eckhouse in view of Sinofsky (U.S. Patent No. 6,270,492 B1) and in view of Byren et al. (U.S. Patent No. 4,853,528), Applicants understand the rejection to be under 35 U.S.C. 103(a) in light of the Examiner's comments.

Lastly, claims 14, 17-21, 25, and 26 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In view of the foregoing amendments and the following remarks, Applicants respectfully request reconsideration of claims 1-33 and consideration of new independent claim 34 in view of the above amendments and the comments below. No new matter is added by way of newly added claim 34, which includes elements of original claims 1 and 14.

Rejection under 35 U.S.C. § 102(b)

Eckhouse

In paragraph 2 of the Office Action, the Examiner rejected claims 1-3, 9, 10, 22, 24, 27-30, and 33 under Eckhouse. That is, the Examiner stated that Eckhouse discloses each element of independent claims 1, 22, and 33. Applicants respectfully traverse.

For example, the Examiner equated Eckhouse's "optical filters 18" to the "fluorescent element" recited in claim 1. Claim 1 recites "a fluorescent element positioned to receive pump radiation and responsively generate emitted radiation." Although Eckhouse discloses "[o]ptical...filters 18...to control the spectrum and intensity of light" (col. 5, lines 45-48), nowhere does Eckhouse teach or suggest that its optical filters "responsively generate emitted radiation." Therefore, Eckhouse only teaches a filter that permits certain wavelengths of radiation to only pass through the filter without more.

Claim 1 is therefore allowable over the art of record. Claims 2, 3, 9, and 10 depend from claim 1 and therefore derive patentability therefrom. These claims, however, recite additional novel, nonobvious features that further distinguish the claimed invention over the art of record. For example, claim 2 recites that "the fluorescent element comprises a fluorescent substance dispersed in a solid medium." Eckhouse fails to teach or suggest that its optical filter comprises "a fluorescent substance dispersed in a solid medium."

For the foregoing reasons, Applicants respectfully submit that claims 1, 2, 3, 9, and 10 are patentable over the cited art and request the withdrawal of the rejection.

Moreover, Applicants respectfully submit that independent claims 22 and 33 and dependent claims 24 and 27-30 are also patentable for at least the same reasons explained in connection with claim 1. Applicants therefore believe these claims are now in condition for allowance.

Braun et al.

In paragraph 3 the Examiner rejected claims 1, 9, 10, 15, 16, 22, 24, and 31-33 under Braun et al. More specifically, the Examiner indicated that Braun et al. discloses each element of independent claims 1, 22, and 33. Applicants respectfully traverse.

For example, claim 1 recites a “florescent element [] to...responsively generate emitted radiation.” Braun et al. discloses that “[t]he radiation emitted by radiation source 8 is passed by reflector 7 through opening 6 out of casing 5 and impinges upon cuvette 4” (col. 2, lines 53-55). Further, the “...water 11 in cuvette 4 filters the wavelengths not desired for the treatment out of the radiation emitted from radiation source 8” (col. 2, lines 56-58). The remaining radiation exits the cuvette and “impinges upon the person” (col. 2, lines 58-59). Since the water 11 does not responsively generate emitted radiation, Braun et al. cannot be said to either teach or suggest the claimed florescent element of the above-identified application. ✓

Claim 1 is therefore allowable over the art of record. Claims 9, 10, 15, and 16 and claims 22, 31, and 32 depend respectively from claim 1 and claim 22 and therefore derive patentability therefrom. These claims, however, recite additional novel, nonobvious features that further distinguish the claimed invention over the art of record. For example, claim 2 recites that “the florescent element comprises a florescent substance dispersed in a solid medium.” Braun et al.

fails to teach or disclose that its optical filter comprises “a fluorescent substance dispersed in a solid medium” since the disclosed water 11 cannot be said to be a solid.

For the foregoing reasons, Applicants respectfully submit that claims 1, 9, 10, 15, 16, 22, 24, and 31-33 are patentable over the cited art and request the withdrawal of the rejection.

Moreover, Applicants respectfully submit that independent claims 22 and 33 and dependent claim 24 is also patentable for at least the same reasons explained in connection with claim 1. Applicants therefore believe these claims are now in condition for allowance.

Rejection under 35 U.S.C. § 103(a)

Eckhouse in view of Talpariu

In paragraph 5, the Examiner rejected dependent claims 12, 13, and 23 as being unpatentable over Eckhouse in view of Talpariu. Although the Office Action indicates that Eckhouse does not explicitly teach the use of optical fibers to deliver pump radiation, Talpariu is cited as teaching an optical fiber. The Office Action states further that it would be obvious to combine Eckhouse with Talpariu to obtain the claimed combination. Applicants respectfully traverse.

As set forth above, Eckhouse fails to teach or suggest each element of claims 1, 22, and 33. Therefore, since the cited references, whether considered alone or in combination, neither teach nor suggest the claimed combinations, dependent claims 12, 13, and 23 are patentable over the cited art. Applicants respectfully request the withdrawal of the rejection of claims 12, 13, and 23.

Eckhouse in view of Sinofsky and Byren

In paragraph 6, the Examiner rejected dependent claims 4-8 and 11 under 35 U.S.C. 102(a) as being anticipated by Eckhouse in view of Sinofsky and in view of Byren et al. Although the Office Action indicates that Eckhouse does not explicitly teach the use of optical fibers to deliver pump radiation, Sinofsky is cited as teaching "the use [of] liquids fluorescent medium," and Byren is cited as teaching "the use of nonlinear optical mediums (i.e. solid, liquid, or gas)." The Office Action states further that it would be obvious to combine Eckhouse with Sinofsky and Byren et al. to obtain the claimed combination. Applicants respectfully traverse.

As set forth above, Eckhouse fails to teach or suggest each element of claims 1, 22, and 33. Therefore, since the cited references, whether considered alone or in combination, neither teach nor suggest the claimed combinations, dependent claims 4-8 and 11 are patentable over the cited art. Applicants respectfully request the withdrawal of the rejection of claims 4-8 and 11.

New Claim

New claim 34 has been added to more adequately claim the various embodiments and features of the claimed invention. Applicants respectfully submit that the new claim is fully supported by the specification as originally filed and thus does not introduce new matter.

New claim 34 is patentable for at least the same reasons discussed above, for example, in connection with independent claim 1.



Conclusion

Based on the above remarks, Applicants believe that they have fully overcome the rejections in the Office Action of December 20, 2001 and that the application is in condition for allowance. Therefore, Applicants respectfully request a Notice of Allowability. If the Examiner has questions regarding the case, the Examiner is invited to contact Applicants' undersigned representative at the number given below.

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Respectfully submitted,

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